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5 **Attorney for Defendant Dongbu Insurance Company, Ltd.**

6
7 **IN THE UNITED STATES DISTRICT COURT FOR THE**
7 **NORTHERN MARIANA ISLANDS**

8 **JUNG SOON LEE (deceased), by**
9 **SUNG YOUNG LEE, Personal**
10 **Representative**

11 **Civil Action No. 05-0031**

12 **Plaintiff,**

13 **v.**

14 **DONG GUK CORPORATION,**
14 **and DONGBU INSURANCE**
15 **COMPANY, LTD.**

16 **DEFENDANT DONGBU**
17 **INSURANCE COMPANY,**
17 **LTD.'S**
18 **ORIGINAL ANSWER AND**
19 **DEFENSES TO**
20 **FIRST AMENDED COMPLAINT**

21 **Defendants.**

22 **ANSWER**

23 Defendant Dongbu Insurance Company, Ltd. ("Dongbu") states as follows in answer
24 to Plaintiff's First Amended Complaint ("Complaint"):

- 25 1. Dongbu is without information sufficient to plead to the truth or falsity of the
26 averments in Paragraphs 1 through 3, inclusive, and on that basis, denies same.
27 2. Dongbu denies the averments in Paragraph 4 as written, except that Dongbu admits it
28 was authorized to conduct insurance business in the Commonwealth at all times
29 relevant to the Complaint.

- 1 3. In answer to Paragraph 5, Dongbu incorporates herein as if set forth in full its answers
- 2 to the previous Paragraphs of the Complaint.
- 3 4. Dongbu is without information sufficient to plead to the truth or falsity of the
- 4 averments in Paragraphs 6 through 20, inclusive, and on that basis, denies same.
- 5 5. In answer to Paragraph 21, Dongbu incorporates herein as if set forth in full its answers
- 6 to the previous Paragraphs of the Complaint.
- 7 6. In answer to Paragraph 22, Dongbu admits that it issued an insurance policy to Dong
- 8 Kuk Corporation, but Dongbu denies that there is any coverage under the applicable
- 9 policy for the claims set forth in the Complaint.
- 10 7. Dongbu denies the averments in Paragraph 23.
- 11 8. Dongbu denies any averments in the Complaint to which it has not specifically
- 12 responded, above.
- 13 9. Dongbu denies that Plaintiff is entitled to any of the relief sought in the Complaint.

16 **DEFENSES**

- 17 1. Plaintiff fails to state a claim upon which relief can be granted in that none of the claims
- 18 fall within the policy that Dongbu issued to Dong Kuk Corporation including without
- 19 limitation because the policy has a “dram shop” exclusion for any claims in connection
- 20 with the selling or providing of alcoholic beverages and the claims in the Complaint
- 21 arise solely out of same.
- 22 2. Based on the allegations in the Complaint, the Plaintiff assumed the risk and had the last
- 23 clear chance to avoid the accident in that the decedent was a voluntary passenger in the
- 24 vehicle of an obviously intoxicated person.
- 25
- 26

- 1 3. Based on the allegations in the Complaint, Plaintiff's claims are barred in whole or in
- 2 part by the illegal conduct of the decedent in jointly receiving with the driver of the
- 3 vehicle alcoholic beverages after hours.
- 4 4. Based on the allegations in the Complaint, the accident made the basis of the Complaint
- 5 was caused by a third party, i.e. the operator of the vehicle, over whom neither Dong
- 6 Kuk Corporation nor Dongbu had any control.
- 7 5. Dongbu incorporates herein by reference any affirmative defense claimed by Defendant
- 8 Dong Kuk Corporation in its answer to the Complaint.
- 9 6. Dongbu reserves the right to add additional defenses as the case proceeds.

10 Respectfully submitted this 19th day of October, 2006.

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14 THOMAS E. CLIFFORD
15 Counsel for Defendant